IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 5961 of 2007(I)

OS.375/1998 of II ADDL. DISTRICT COURT, TRIVANDRUM
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PETITIONER:

SMT.PRABHAVATHI, AGED 47, W/O.ROBINSON,
RESIDING AT `SREEVIHAR', SATHYAN NAGAR,
ESTATE P.O., PAPPANAMCODE, THIRUVANANTHAPURAM.

BY ADV. SRI.BIJU HARIHARAN

RESPONDENT:

MR.KUTTAN PILLAI, AGED 85,
S/O.LATE ANANDAN PILLAI, RESIDING AT
`AMBIKA NILAYAM', PERUKAVU, VILAVOORKAL,
VILAPPIL VILLAGE, THIRUVANANTHAPURAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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W.P.(C)NO.5961 OF 2007

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Dated this the 13th day of March 2007

JUDGMENT

The petitioner is the defendant in O.S.375/1998 on the file of the Principal Munsiff's Court, Trivandrum. The suit was decreed ex parte. On the application of the petitioner, the ex parte decree was allowed to be set aside on payment of cost of Rs.1,500/- vide Ext.P4 order. The order was challenged by the petitioner by filing C.M.A.5 of 2005 before the District Court, Thiruvananthapuram and that was dismissed vide Ext.P8 judgment as the order was not appealable and C.M.Appeal was not maintainable. It was in the circumstances that this writ petition was filed by the petitioner. It is submitted by counsel for the petitioner that petitioner is now prepared to abide by Ext.P4 order and in another 2 or 3 days she is prepared to pay the cost Rs.1,500/- ordered to be paid to the respondent/plaintiff.

2. In the result, I order the petitioner to deposit the cost ordered vide Ext.P4 order in the court below for payment to the respondent or pay directly to the respondent and file memo in the court below positively, within one week from today. In case

of failure, this writ petition shall stand dismissed. Petitioner shall be at liberty to produce copy of this judgment before the trial court so as to enable the court below to abide by the directions aforesaid.

3. Writ petition is disposed of with the above direction.

Issue copy of this judgment to the counsel for the petitioner as expeditiously as possible.

K.P.BALACHANDRAN, JUDGE

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